

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAREFREE PARK CORPORATION, AMIN
NABHAN and JAMILE NABHAN,

Plaintiffs,

v.

ADIB NABHAN,

Defendant.

Civil Action No. 2003-CV-12426 RCL

PLAINTIFFS' SUPPLEMENT TO THEIR PROPOSED JURY INSTRUCTIONS

Plaintiffs Carefree Park Corporation, Amin Nabhan and Jamile Nabhan hereby request that the Court provide the following instructions to the jury:

1. In determining whether either side's claims are barred by the statute of limitations, I instruct you that constructive knowledge of the alleged breach of fiduciary duty is insufficient. In other words, the existence of facts that could have put the person to whom the duty is owed on notice of the breach of duty is not sufficient to start the limitations period running unless it is shown that the person to whom the duty is owed had actual notice of those facts. Lattucca v. Robsham, 442 Mass. 205, 213 (2004).
2. If you find that Adib Nabhan breached his fiduciary duty to the plaintiffs and that the plaintiffs have suffered damages as a result of that breach, you should award the plaintiffs the full amount of the damages you determine to be due and not reduce that amount by one-third because Adib Nabhan is a one-third shareholder of Carefree Park.

3. If you find that Fun Depot, Inc. was a diverted corporate opportunity of Carefree Park Corporation, then I instruct you that you cannot find that Adib Nabhan is entitled to recover monies he allegedly spent on behalf of Carefree Park Corporation, because monies derived from Fun Depot's business belonged to Carefree Park.

4. I instruct you that Adib Nabhan is not entitled to recover from Carefree Park for the value of any buildings he may have erected on the property in Florida because such buildings belong to the owner of the underlying real estate as a matter of law. Houdaille Industries, Inc. v. Markham, 440 So. 2d 59, 60 (Fla. Ct. of App. 1983).

CAREFREE PARK CORPORATION, AMIN
NABHAN AND JAMILE NABHAN

By their attorneys,

/s/
Robert L. Kirby, Jr. (BBO #550538)
Gordon M. Jones, III (BBO # 549016)
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Dated: March 1, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by hand on March 1, 2006.

/s/
Robert L. Kirby, Jr.